

REMARKS/ARGUMENTS

At the outset, Applicant appreciates the thorough review and consideration of the subject application. The Non-Final Office Action of December 19, 2008 has been received and its contents carefully noted. By this Amendment, claims 2 and 7 have been amended and claims 19-21 are newly added. Accordingly, claims 1-21 are currently pending in the application. Support for these amendments is provided in at least Figures 1-7 and related text of the specification. No new matter has been added.

In view of the above amendments and the following remarks, Applicant respectfully requests reconsideration and timely withdrawal of the pending objections and rejections for the reasons discussed below.

Allowable Subject Matter / Claim Objection

Applicant appreciates the indication that claims 4-9, 13 and 17-18 contain allowable subject matter. More specifically, claims 4-9, 13 and 17-18 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Rejections Under 35 U.S.C. § 103

Claims 1-3, 5, 6, 10, 11, 12, 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 5,684,828 issued to Bolan, *et al.* ("Bolan") in view of U.S. Patent No. 4,977,578 issued to Ishigaki, *et al.* ("Ishigaki"). Applicant respectfully traverses this rejection for at least the following reasons.

Claim 1 is allowable as it recites a combination of elements including, *inter alia*,

producing a control pulse after having received a certain number of chips of the received signal;

...

sending, to demodulation units in the receiver, a delayed signal in which chips have been omitted or duplicated on the basis of said control pulse.

The applied references fail to teach or suggest at least these features.

Claim 10 is allowable as it recites a combination of elements including, *inter alia*,

demodulation units, wherein the timer is arranged to produce a control pulse after having received a certain number of chips of a received signal.

The applied references fail to teach or suggest at least these features.

In addition, the Office admits Bolan is materially deficient as a reference.

The Office tries to cure these deficiencies of Bolan with Ishigaki. Applicant respectfully submits the combination is improper as being based on improper hindsight. "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006)(cited with approval in KSR). Also, the U.S. Patent & Trademark Office Board of Appeals has held combinations to be improper when there was "no suggestion to combine the teachings and suggestions [of references], as advanced by the Office, except from using Appellants' invention as a template through a hindsight reconstruction of Appellants' claims." *Ex Parte Crawford et al*, Appeal 20062429, May 30, 2007. The Office states the rationale for the combination is for improvement. Clearly, this articulated rationale is an unsupported conclusion based on improper

hindsight reasoning founded in teachings from the instant application.

For at least these reasons, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1-3, 5, 6, 10, 11, 12, 14 and 15. Since none of the other prior art of record, whether taken alone or in any combination, discloses or suggests all the features of the claimed invention, Applicant respectfully submits that independent claims 1 and 10, and all the claims that depend therefrom are allowable.

Newly Added Claims

Newly added claims 19-21 are directed to features of the invention, which were indicated as being allowable. Accordingly, Applicant respectfully submits that claims 19-21 are in condition for allowance.

CONCLUSION

Applicant believes that a full and complete response has been made to the pending Office Action and respectfully submits that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicant respectfully submits that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the Applicant's undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

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Reply to Office Action of December 19, 2008

Please charge deposit account no. 50-1123 \$52 to cover one additional claim in excess of the 20 previously paid for. No additional fee is believed due for this submittal, however, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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